Secrt. II-27—60,004—17-11-48.

Home (1949) Department.

Ms SERIES.

D-21(E)

G.O. NO.	4 8 2 1
Dated	2.12.49

[Despatch Abstract.]

Courts - Civil - Bellary District - District Munsif, Hospet Appointed to perform the functions of the court under the Land Acquisition Act - Notification issued.

Copy of letter from the High Court, Roc. No. 2916/49-B1, dated 1.9.49:-

I am to say that the Hon'ble the Judges considered the questi... of investing District Munsifs with the powers of the 'court' under the Land Acquisition Act on several occasions before now and come to the conclusion that District Munsifs could not be invested with such powers unless the Act were amended suitably.

2. Their Lordships have again examined this subject but see no reason for taking a different view now.

3. Section 3 (d) of the Land Acquisition Act defines 'court' as 'a principal Civil Court of Original Jurisdiction'. It is to the Court as so defined that references lie under sections 18 and 30 of the Act. It is also into this Court that compensation moneys have to be paid under section 31. Therefore unless the Government is prepared to undertake amending legislation in this behalf, it would be against the letter and spirit of the Act to invest all Dt. Munsifs with the powers of the 'court' under the Act. No doubt the ~~the~~ Government may appoint any Judicial Officer to be a Court for the purpose of the Act in exceptional cases. But if all District Munsifs are to be invested with the powers, it would be converting the exception into the rule.

4. In this view the further questions raised in para (2) of your above letter do not arise.

(True copy)

1892 2 Dept's

3

C.[illegible]120041-E/49.

Home Department.

1

G.O.Ms.No. 4821 dated 8-12-49

~~Act - Land Acquisition - In~~ Court - Civil - Bellary Dt. Munsif, Hospet - Appointed to perform the functions of the court under the Land Acquisition Act - Notification issued.

Precedent [illegible] 29 Hom (V) 1937

ORDER:

The following notification will be published in the Fort St.George Gazette:

In exercise of the powers conferred by Notification

~~Under the provisions of clause (d) of~~ Sec. 3(d) (Central Act I of 1894), H.E. the Governor ~~the Govt.~~ of Madras hereby appoints the Dt.Munsif, Hospet to perform the functions of the Court under the said Act within the local limits of his ~~local~~ jurisdiction.

the Hon. the C.J.
Rev. dept. (S)
~~Legal~~ P.W.D. dept. (T)
S.G.P. for publn. in the Gazette.
Dt. Judge, Bellary
Coll. Bellary

Dept RD 5/2

24/11

28.11

Nfn. 1537 at p. 2191 of Part I of FSGG of 13.12.49.

P.T.O.

4

(Copies)
Copy to the Bill & Rec
S.O, T. B. Proud
Bellany
Dep'd on 2/12/69
Dep'd 2/12/69
2-12-69

HOME DEPARTMENT

Lr./Ref. No. 122529 E/49-2 dated 2.12.49.

To

The Hon'ble the C.J.,
High Court, Madras.

Hon'ble Sir,

Courts - Civil - District Munsif, Hospet - Investiture of powers of a Court under the Land Acquisition Act.

Ref:- Sri Ganpati's letter Roc. No. 2916/49-B1, d/1.9.49.

I am directed to invite a reference to my letter No. 84501 E/49 dated 22.11.49 regarding the establishment of a Sub Court at Hospet and to say the Govt. have since decided that, pending the establishment of a Sub Court at Hospet, the Dt. Munsif, Hospet may be invested with the powers of a court under the Land Acquisition Act immediately in order to give relief to the litigants. Orders are under issue separately appointing the District Munsif, Hospet to perform the functions of the court under the Land Acquisition Act.

Yours faithfully,

(1 1258 1 E)

HOME DEPARTMENT.

Memo. No. 122529 E/49-5 dated 19-12-49

Courts - Civil - Bellary district - Dt. Munsif, Hospet - Appointment to perform the functions of the Court under the Land Acquisition Act - Jurisdiction.

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empowering the Dt. Mf., Hospet to perform the functions of the Court under Land Acquisition Act - V

The Collr. of Bellary is referred to G.O. Ms. No. 4821, Home, d/2.12.49 on the subject cited and he is informed that there is no pecuniary limitation on the jurisdiction of the Dt. Munsif, Hospet in regard to land acquisition cases.

To the Collr. of Bellary.
Copy to the Govt. Pleader, Bellary, through the Collector, Bellary.

HOME DEPARTMENT.

Courts - Civil - Bellary district - D.M.C., Hospet - Investiture of powers of a court under the Land Acquisition Act.

Extracts of note from file bearing at No 61943 C Rev Revenue

** ** **

"We have delayed the matter too long.

H.S.R./15.11.49."

"Orders on 'A' in the Answer Sheet have been issued. This has been hopelessly delayed. Change the answer by saying that to meet the immediate necessities Order as at 'A' have been issued and the question of legislation amending the L.A. Act is under consideration etc. etc.

Can we not even now invest the Dt. Munsif, Hospet with powers as a Court under section 5 of the L.A. Act, without amendments of the Acts?

K.M./15.11."

Revenue Department.

To A.S.

Please see the minutes of H.M.(L.R.) and H.M.(E. & L.) on p.4 ante

2. Orders regarding the portion 'A' of the draft answer below have been despatched by the Home Dept. yesterday - pl. see copy of the order obtained from Home and put up at (E). The draft answer has therefore been suitably modified w.r.t. the minutes of H.M.(E. & L. at 'X' on p.4 ante.

3. With reference to the minutes of H.M.(E. & L.) at Y on p.4 ante it is presumed that H.M. wants to know whether the Dt. Munsif of Hospet can be invested with powers of a 'Court' under sec. 3 (d) of the L.A. Act without amending that Act. In this connection it is submitted that the Legal Dept. who were consulted stated that there is no legal objection to appointing D.Ms. to perform the functions of a 'court' under section 3 (d) of the L.A. Act within specified local limits i.e. within the limits of their territorial jurisdiction - pl. see notes of Legal on p.12 n.f. in L.F. below. The High Court also, which was consulted in the matter of investing all the D.Ms. with powers of the 'Court' under the L.A. Act, stated that unless the Govt. were prepared to undertake amending legislation, it would be against the letter and spirit of the Act to invest all D.Ms. with the powers of the 'Court' under the Act. But the High Court has however stated that if the Govt. want they may no doubt appoint any Judl. officer to be a 'Court' for the purpose of the Act in exceptional cases.

4. The matter regarding undertaking amending legislation for the purpose of investing all D.Ms. with powers of a 'Court' under the L.A. Act is being dealt with ~~the~~ in the L.F. below - pl. see notes on pp.23-26 n.f. in L.F. below.

5. It is for orders whether investing the Dt. Munsif of Hospet with powers of a 'Court' under sec. 3 (d) of the L.A. Act may be deemed to be an exceptional case and, if so, there appears to be no legal objection to that being done without amendment of the Act.

6. The file may be sent to Legal again for their remarks on para 5 above before circulation.

"The High Court itself has said that any Judicial Officer may be appointed as a Court for the purpose of the Act in exceptional cases. It only takes objection to investing all the Dt. Munsifs with the powers of the 'Court' under the Act without an amending legislation in this behalf. There can, therefore, be no objection to investing the Dt. Munsif at Hospet with the powers of the 'Court' under section 3 (d) of the L.A. Act.

It may, however, be pointed out that when the Dt. Judge, Bellary put to the High Court alternative suggestions, either to invest the Dt. Munsifs at Hospet and Bellary with the necessary powers under the L.A. Act or to permit the Dt. Judge, Bellary to hold Courts at Hospet for a few days for the hearing of the cases, the High Court has favoured the latter suggestion. It is with reference to the suggestion of the High Court that the G.O. at (E) has been issued.

In view of this, I suggest it is now unnecessary to empower the Dt. Munsif, Hospet as a 'Court'.

V.V.

xxx/17.11.49."

V.V/17.11.49.

Legal Department.

It seems to me that it will be very desirable to authorize the Dt. Munsif to deal with these cases. Most of them are, if I remember aright, of a very petty character, and it is quite unnecessary for the Dt. Judge to go to Hospet from time to time, to hear the cases. The fact that we have already passed orders authorizing the Dt. Judge to sit at Hospet, need not stand in the way of our authorizing the Dt. Munsif now.

H.M. (E. & L.) may see.

K.V.R/19.11.49.

Revenue Department.

To A.S.

Please see minutes of H.M.(L.R.) and H.M.(E. & L.) on p.4 ante, the notes of this Dept. on pp.(5-6) ante and the remarks of Legal Dept. (on p.6 ante).

2. The file may now be circulated to H.M.(L.R.) and H.M.(E. & L.) w.r.t. their minutes on p.4 ante.

"The draft answer below may also be approved.

/19.11.49."

V.V./19.11.49.

"The Dt. Munsif, Hospet may be invested with the powers as a 'special case' as it is possible to do so without amending the Act.

The matter has been delayed too long. Several poor people are to travel long distances for petty sums. The order investing the Dt. Munsif, Hospet may issue within 2 weeks.

H.S.R./21.11."

"I entirely agree.

K.M./21.11."

Revenue Dept.

To A.S.

Please see the orders in circulation above.

2. The draft answer which has been approved in circulation may issue.

/22.11.49.

3. With reference to the orders at 'A' above action has to be taken in Home Dept. After issue of the answer to the L.C.Q. the file may be sent to Home Dept. for taking necessary further action on 'A' above - cf. the G.O. at (E)? Home Dept. may also be requested to return the file soon as H.M.(L.R.) may require this file for reference at the time of answering the L.C.Q.

/22.11.49

V.V. 22/11.49.

Home Department.

(Previous notes of this Dept. on pp.3-4 ante.)

This file has been sent to this Dept. w.r.t. 'X' (at foot of p.7 supra) The action now to be taken is to issue a notification investing the Dt. Munsif, Hospet with the powers of a court under the Land Acquisition Act to try cases there. As the High Court has already stated that if the Govt. want they may no doubt appoint any judl. officer to be a 'court' for the purpose of the Act in exceptional cases, the present immediate necessity can be taken to be exceptional. It does not therefore appear necessary to invite the specific remarks of High Court on this proposal.

In view of the notes of Rev. at 'S' above, extracts have been taken for separate action. The orders at 'N' on p.7 above have been noted. The file may be returned to Revenue.

S.V.
S.C.D.

"H.M.(E. & L.) has raised the question of opening a temporary Sub Court at Hospet and the High Court has been consulted on the suggestion. If this proposal eventuates, it might not be necessary to invest the Dt. Munsif, Hospet with the necessary powers.

C.S.D./25.11.49."

Home Deptt

Please see the ~~extract of~~ extracts notes above. H.M.(L.R.) has directed that the Dt. Munsif, Hospet may be invested with the powers of the 'Court' under the Land Acquisition Act and that the orders may issue within two weeks. H.M. (E. & L.) has agreed. In connection with the Part II Scheme 1950-51 the High Court has suggested the establishment of a Sub Court at Bellary from the date of reopening of the Court after the summer recess 1950 but H.M. (E. & L.) has suggested that a temporary Sub Court may be established at Hospet even now till the closing of the court for the summer recess 1950 in order to give relief to the litigants, pending the amendment of the Land Acquisition Act to invest Dt. Munsifs with the powers of the 'court' under that Act. The High Court has been addressed in the matter and its reply is awaited. As the issue of orders regarding constitution of a Sub Court at Hospet may take 3 or 4 weeks, it is for consideration whether the Dt. Munsif, Hospet may be invested with the powers of a court under the L.A.A

immediately. It is presumed that it is not necessary to cancel the G.O. at (Z) fixing Hospet also as the place at which the Dt. Court, Bellary shall be held for purposes of hearing cases under the Land Acquisition Act, 1894. Subject to orders, a draft order and a draft letter are submitted for approval. Legal may see for scrutiny of the draft notification before orders are obtained in circulation.

M
Cs 4575/11
15.11.41

If the High Court agree to the establishment of a Sub Court at Hospet, it may be necessary to direct the D.J. with the necessary powers. The High Court's reply may perhaps be awaited

Advn (E&L) may see

P.
25/11

Advn (E&L)

Let us immediately invest the Sheristadar Hospet as a Court under the L.A. Act.

A

As Bank he will not be able to dispose both that work and his usual work. So a Subcourt will have to be established there. We can have it ~~for the present~~ till the vacation in case the H.C. Agrees. After the Vacation we can ask the H.C. whether the Subcourt that they wanted for Bellary as Part II may be housed at Hospet.

25/11

25/11

25/11

15/11

Please see the minutes of H.M. 5.

The intention of H.M. seem to be that, as the Dt. Munsif, Hospet will not be able to cope with land acquisition work and his usual work, the land acquisition ~~work~~ may be ~~disposed~~ tried in the new sub court Hospet after ~~a Sub Court~~ it is established ~~at Hospet~~. After a new Sub Court is established at Hospet, there will then be two courts at Hospet (Sub Court and Dt. Munsif's Court) to hear land acquisition cases and presumably suits which will fall within the pecuniary jurisdiction of Dt. Munsif/ie. suits of value of less than Rs.3,000 will be filed in the District Munsif's Court. As this may not give relief to the Dt. Munsif, perhaps the notification now proposed to be issued investing the Dt. Munsif, Hospet to try land acquisition cases may be cancelled later when a Sub Court is sanctioned for Hospet. But in that case the transfer of pending cases from the Dt. Munsif's Court to the new Sub Court will involve delay. To avoid this the notification that will be issued later, cancelling the notification in draft I empowering the Dt. Munsif, Hospet to try land acquisition cases, may be subject to the condition that the pending land acquisition cases in the D.M.C. will be disposed of by the Dt. Munsif himself. Legal may be requested to advise on this point.

Legal may also see for scrutiny of the draft notification in draft I. Draft II will be modified suitably after return from Legal.

28/11/49

28/11/49

28/11/49

Legal

LEGAL DEPARTMENT.

The draft notification is in order subject to the alterations indicated thereon in red ink. The notification may be issued immediately. Draft II requires no modification now and may also issue as it is.

2. The question as to what arrangements may be made when the Sub Court is constituted may be considered separately after the drafts are issued. If the intention is that the District Munsif should try pending suits even after the Sub Court is established, the notification investing the District Munsif with the powers of a court under the L.A.Act should not be cancelled, When ~~When~~ the Sub Court is

12004/1-E

17

3.12

constituted. The District Munsif cannot be divested of his power and at the same time be authorised to try pending L.A.suits. He can, however, be given relief by the District Judge transferring some of the suits filed in the District Munsif's Court under the L.A.Act to the new Sub Judge under section 24 of the Code of Civil Procedure. After he has ~~disposed of~~ disposed of all pending suits, the question of cancelling the notification may be considered.

Home may examine this question in the light of these remarks and send the file to this Department for any further remarks, if necessary. (after the issue of the draft)

1-12-49

Home Deptt

S 1

12429 E

ASSISTANT SECRETARY TO GOVERNMENT
1 - DEC 1949
HOME DEPARTMENT

Legal SE-02675-456/49

1-12-49

2-45 P.M

(with L.F.)

Home

Please see the opinion of the Legal Deptt above. Draft I, as amended by Legal, may issue Legal advise that draft II requires no modification now and may also issue as it is. So draft II also may be approved and it may issue.

The question about cancelling (later) the notfn in Draft I may be examined after the receipt of the High court's reply to the letter on plig in L/F regarding the establishment of a sub-court at Hospet.

6/12

Issued as G.O.Ms.No.1621 and Lr/Rep.No.12252/49-2 dated 2.12.49.

3-5 q.

6/12

Addl.Dy.Secy.(Ex.) on tour (a.i.)

5/12

ADDITIONAL DEPUTY SECRETARY TO GOVERNMENT
7 - DEC 1949
HOME DEPARTMENT

pending the receipt of the High Court's reply to the letter on plig in L/F, the file may be sent to Pub (Sep) for perusal.

7.12

7-12

Pub (Sep.)

Home II-ord/12529 E/49.

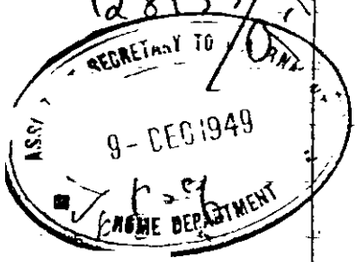
ASSISTANT SECRETARY
8 DEC 1949
PUBLIC SEP RAT...

PUBLIC (SEPARATION) DEPARTMENT.

E

pp 3-6 ante

128155/47



The notes of Home from the page 3 ante and the orders in circulation on pp.4 and 6 ante may be perused.

This file deals with the constitution of a Court of Subordinate Judge at Hospet for land acquisition cases. Pending establishment of the Sub Court, the District Munsif at Hospet has been empowered to hear land acquisition cases in order to give relief to the litigants.

In accordance with the decision of the Cabinet, the Scheme of Separation of the Judiciary from the Executive will be extended with effect from 1-1-195^ to Bellary and three other districts. The "Simultaneous Method" will be in force in these districts of Bellary and Anantapur by which the District Munsifs will be Sub-Divisional Magistrates within their respective jurisdictions. The District Munsif of Hospet will therefore have to try first class criminal cases arising within his jurisdiction on and from 1-1-1950, in addition to his normal civil work and the land acquisition cases now added on to his file. To eliminate delay in the disposal of criminal cases on the file of District Munsif, Hospet, the Sub-Court at Hospet for the Land Acquisition cases will have to start functioning on and from 1-1-1950.

With these remarks the case may be returned to Home.

9/12-49

D.S/...

9.12.49

9/12

Home Department

Please see the notes of the Public (Separation) Dept. above. They suggest that to eliminate delay in the disposal of criminal cases on the file of the Dt. Munsif, Hospet who will have to try first class criminal cases arising within his jurisdiction on and from 1.1.50 in addition to hi

Home (Secretariat)

G.O.M.S. 1522/49-1

9.12.49

normal civil work and the Land Acquisition cases now added on to his file, the Sub Court at Hospet for the Land Acquisition cases will have to start functioning on and from 1.1.50. In the linked file below the High Court has enquired whether the remarks of the Hon the judges are still required on the proposal to establish immediately a temporary sub court at Hospet with powers to try L.A. cases even after the order in G.O. 4821, Home, dt 2.12.49 investing the Dt Munsif, Hospet with powers to try L.A. cases. In view of the notes of Pub (Sep) on p 7 supra it would seem that the necessity to establish a temp. sub court at Hospet with powers to try L.A. cases from 1.1.50 is imperative. ~~The High Court may is being as~~ A reply to the High Court that its remarks are still required in the subject is being sent in the linked file. This may therefore lie over pending the final reply of High Court in the lf.

16/12

LEGAL DEPARTMENT.

H.M.(L.R.) telephoned to me this morning and wished the following matters to be clarified by a specific order of the Government, in regard to the notification authorizing the District Munsif of Hospet to perform the functions of the Court under the Land Acquisition Act, 1894.

Legal Cns 16935

2 (1) In the first place, the fact that there is no pecuniary limitation on the jurisdiction of the District Munsif should be made clear.

(2) In the second place, it should also be made clear (after verifying the point) that there is no pecuniary restriction on the District Munsif in regard to the apportionment of compensation awarded by him among the various claimants thereto.

(3) The effect of any* decisions of the High Court should also be considered in connexion with this matter.

* See 61 M.L.J. 312

3. H.M. wanted that orders should be issued today/at the latest on Monday or

---

The above is a copy of a note which I have sent to Home

p 11 below

H.M. (L.R.) mentioned 40 M.L.J. but I have not been able to get at any case bearing on the matter, in that volume.

NVR 17/12/49

ADDITIONAL DEPUTY SECRETARY TO GOVERNMENT 17 DEC 1949 HOME DEPARTMENT

I should like to know from Home what action is taken

HM (L.R.)

17/12

Home Dept for answering H.M's query

NVR 17/12/49

11-9

LEGAL DEPARTMENT.

H.M.(L.R.) telephoned to me this morning and wished the following matters to be clarified by a specific order of the Government, in regard to the notification authorizing the District Munsif of Hospet to perform the functions of the Court under the Land Acquisition Act, 1894.

2 (1) In the first place, the fact that there is no pecuniary limitation on the jurisdiction of the District Munsif should be made clear.

(2) In the second place, it should also be made clear (after verifying the point) that there is no pecuniary restriction on the District Munsif in regard to the apportionment of compensation awarded by him among the various claimants thereto.

(3) The effect of any decisions of the High Court should also be considered in connexion with this matter.

3. H.M. wanted that orders should be issued today or at the latest on Monday.

17/12/49

ADC-D.S, Home Dept.

HOME DEPARTMENT.

Please see the notes of the Legal Secretary above.

Para 2 (1) above: The question whether Dt. Munsifs can be empowered to perform the functions of a court under the Land Acquisition Act up to a pecuniary jurisdiction of Rs.3,000 was previously examined in 1928 in consultation with the High Court. The view then taken was that the pecuniary limit mentioned in Sec.12 of the Civil Courts Act could not apply to cases ordinarily exempted from the cognizance of Dt. Munsifs and that as the cases under the Land Acquisition Act were so exempted, the monetary limit would not apply to those cases when once a Dt. Munsif was appointed to perform the functions of a court. It was also held that Section 3 of the Act did the wording of sub-section (d) of / not permit any

restriction being imposed upon the powers of a Dt. Munsif when once he ~~is~~ was appointed to perform the functions of a Court. In the Revenue Dept. file about empowering Dt. Munsifs to perform all the functions of a court under the L.A. Act, the Legal Dept. have pointed out that it is not advisable to set any limit to the pecuniary jursidiction of ~~the~~ Dt. Munsif under the Land Acquisition Act, as such limitations may lead to complications, for instance, there may be cases where for purpose of a single scheme, lands of the same nature but of different extents and belonging to different persons have to be acquired. In such cases, the claims for compensation by the owners of some of the lands only may, by reason of the smaller extent of such lands, fall within the limited jurisdiction of a Dt. Munsif while the claims for compensation by the owners of the lands may, by reason of the larger extent of those lands fall outside such jurisdiction; or again, different persons may be interested in different portions of the same land, the claims payable in respect of some of those portions only falling within the limited jurisdiction of a Dt. Munsif, while the claims for compensation payable in respect of the other portions fall outside such jurisdiction. If the rate of compensation payable in respect of such lands or such portions of the land were to be determined by different Courts, there would be the danger of a conflict of findings.

It may be mentioned that in the main file of the Rev. Dept. on the subject H.M. (Ed) has minuted ~~has suggested~~ as follows:-

> "Legislation may be undertaken. But I am for limiting the monetary and pecuniary jurisdiction of the Dt. Munsifs to the extent they have other original jurisdiction. When a Dt. Munsif has no pecuniary jurisdiction over Rs.3,000 what is the logic in giving him higher jurisdiction in L.A. cases alone."

The Revenue Dept. are examining this point.

Para 2 (2) above: Section 29-30 of the Land Acquisition Act relate to the apportionment of compensation. Since there is no pecuniary limitation of the jurisdiction of the Dt. Munsif, there would also be no restriction in regard to

the apportionment of compensation awarded by a Dt. Munsif among the various claimants thereto.

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Para 2 (3) above: This Dept. has no information about any decisions of the High Court on this point.

In the circumstances, ~~there~~ it seems ~~to be~~ sufficient ~~announced~~ to issue ~~any further~~ orders on the first point alone and inform the High Court that ~~there is no~~ pecuniary jurisdiction in regard to L.A. cases.

The High Court has been addressed about the establishment of a Sub Court at Hospet ~~even now~~ and its reply is still awaited.

Revenue and Legal may see.

17/12

Above. It seems sufficient if the Collector of Bellary is informed of the position as certain doubts have arisen regarding the pecuniary limitations of the Dt. Munsifs at Hospet in the matter of land acquisition cases, with copy to G.P. Bellary

17.12 Rev/Legal

(Rev/Legal in seen as this is useful with one hour)

Cf M.L.J. Vol LXI (1931)

17.12

To A.S.

Rev.Dept

Please see notes from p. (9) ante.

2. With refce to portion S on p(10) ante it is submitted that a routine note has been put up in the main file answering the points raised by H.H (E.S.) in his minutes (extracted by Home Dept in this file also) and the main file has to be recirculated to H.H (L.A), H.H (E.S.) & H.H for clarification. That file is now in Legal Dept.

Home U.O.No 122529E/49 17.12.49 (123930C/49)

* Send ~~was to~~ by

3. For orders whether this Dept may agree with M above and the file may be passed on to Legal Dept

We may agree. by

73682 e/49

17/12

17/12/49 S

S/Legal

17/12/49.

Legal Sec.

File sent to Legal Dept by Despatch rider & rec'd back by 17/12/49 S.G.

ADDITIONAL DEPUTY SECRETARY TO GOVERNMENT 19 DEC 1949 LEGAL DEPT

also agree. with H. above

K.N. 19/12/49

A.D.S. Home

14

(A 120×12

Home Deptt
Revenue and Legal.

agree with M on p/13 above. A draft Memo is submitted for approval. H.M(E&L) may see before issue. The file may be circulated to H.M (L.R) after issue, with reference to his minutes on p 9 ante.

19.12

19/12/49

Hm(E&L)
Hm (L.R)

19/12/49

Put it will be too much for the Minister to do his normal work & do this additional work which I understand is too heavy. So we will have to appoint an Addl Minister then the Memo may be circulated about 1pm.

19/12/49

19/12

Please see the orders in circulation above. ~~A draft letter to the High Court is submitted for approval. It is presumably the intention of HM(E&L) to consult the High Court on the feasibility of appointing~~

19/12/49

an

ADDITIONAL DEPUTY SECRETARY TO GOVERNMENT
19 DEC 1949
HOME DEPARTMENT

X Issued as Memo. No 122529 E(L&S)/49-5 19/12

H.M.(E. & L.) has already minuted that a sub-court ~~may~~ must be established at Hospet to hear land acquisition cases ~~upto~~ till the ~~end of~~ summer recess, 1950, if the High Court agreed and that after the vacation the High Court ~~may~~ must be asked whether the Sub-Court it recommended for Bellary as Part-II Scheme for 1950-51 ~~may~~ must be established at Hospet instead of at Bellary. The High Court has been addressed on the question of establishing a sub-court at Hospet now and its reply is awaited. The intention is that if a Sub-Court is established at Hospet, it may be empowered to hear land acquisition cases divesting the Dt. Munsif, Hospet of the power to hear land acquisition cases. In the circumstances, it is respectfully submitted that the remarks of the High Court about establishing a Sub Court at Hospet may be awaited and that it does not seem necessary to consult the High Court now about appointing an addl. Dt. Munsif at Hospet. May be re-circulated for orders whether the High Court's reply may be awaited.

Legal Department.

The legal position stated by Home in their note above is correct. Section 3 (d) of the Land Acquisition Act does not contemplate the appointment of more than one judicial officer to perform the functions of the Court under that Act within the same area. Consequently, if there is to be a Subordinate Judge at Hospet and ~~if~~ he is to be invested with the powers of the 'Court' under that Act, the powers conferred on the District Munsif, Hospet, under section 3(d) of that Act will have to be withdrawn, so far as the area within the jurisdiction of the Subordinate Judge is concerned.

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Home Department.

With ref. to the minutes of H.M.(E. & L.) on p.14 above, please see the notes of this Dept. and the Legal Dept. on p.15 above. The Hon. the Judges have agreed to the suggestion to establish a temporary sub court with effect from Jan.1950 and the Judge appointed to perform the functions of a Land Acquisition Court. But as the land acquisition cases alone may not engage the sub judge fully, as other cases from Bellary have to be given to the Sub Judge and as accommodation for the Court would, it is stated, be easier at Bellary than at Hospet, their Lordships suggest that the Sub-Court may be located at Bellary, ~~and~~ that the Sub Judge may be permitted to hold his Court also at Hospet and that it may be left to the discretion of the Sub-Judge to select which of the cases he should try at Hospet. ~~As soon as a temporary sub-court is established, the question of cancelling~~ The notification investing the Dt.Munsif of Hospet with the powers of a court under the L.A ~~Court~~ Act may be ~~xxxxxxxxx~~ cancelled with effect from the date on which the temporary sub-court is created at Bellary. These points have been noted in the top file: The decision in that file may be awaited.

p17 of my top file

ibid

p3 of

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Please see note above. In the top file, Legal and finance have agreed to the proposal to withdraw the powers of a Court under the L.A Act conferred on the Dt. Munsif, Hospet from the date of appointment of the Sub judge at Bellary and to cancel the orders fixing Hospet also as the place at which the District

A-84/507 Pt 4 to my top file

District Court, Bellary shall be held. This has also been approved in circulation - cf. note at page 15/ on p. 10 ante of top file.

2. In their note on pp 5-6 above, Legal have stated that if the intention is that the St. Munsif should try pending suits even after the Sub Court is established, the notification investing the St. Munsif with the powers of a Court under the L.A. Act should not be cancelled, that the St. Munsif cannot be divested of his power and at the same time authorized to try pending L.A. Suits, that he can be given relief by the St. Judge transferring some of the suits filed in the D.I.C. under the L.A. Act to the new Sub Judge under sec. 24 of the Code of Civil Procedure, and that after he had disposed of all suits under the L.A. Act, the question of cancelling the notification may be considered.

F 484 of Box No. 6

Section 3 (d) of the Land Acquisition Act does not contemplate the appointment of more than one judicial officer to perform the functions of the Court under that Act within the same area, and as stated by Legal in p. 15 above their subsequent note on p. 15 above, if there is to be a Sub judge at Hospet and he is to be invested with the powers of the Court under that Act, the powers conferred on the St. Munsif, Hospet under sec. 3 (d) of that Act will have to be withdrawn, so far as the area within the jurisdiction of the Subordinate Judge is concerned.

F 484 of Box No. 6

As Orders have been obtained in circulation at page 15/ in the top file to invest the sub judge with the powers of the Court under the Land Acquisition Act, the notification empowering the St. Munsif, Hospet to try L.A. cases may be cancelled and the pending proceedings

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in that Court (transferred to the file of the Subordinate will be
judge, Bellary. ~~The draft order put up in the top file provides for this. Legal may see which can be done by the Dy. Judge Court~~ under sec. 24 of the Code of Civil Procedure read with sec. 53 of the Land Acquisition Act. It does not therefore seem necessary to provide for this transfer of pending proceedings in the draft order in the top file. Legal may be requested to advise on this point.

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Legal

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ASSISTANT SECRETARY
31 JAN 1950
LEGAL DEPARTMENT

Legal Dept

This Dept agrees with the view expressed by Home at A above

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Home Dept.

Please see the notes of Legal above. No further action is called for in this file. May be closed with the Govt on p. 3 of.

Legal U-O No. 1464/50
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